



USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 9-9-09

*If you can dream it, you can achieve it at an HBCU!*

August 20, 2009

The Honorable Denny Chin United  
States District Court Judge  
U.S. Courthouse, 500 Pearl Street  
New York, NY 10007-1312

Re: The Authors Guild et al. v. Google, Inc. Case No. 1:05 cv 8136 (S.D.N.Y.)

Dear Judge Chin:

We request this court's permission to formally submit this letter supporting final settlement approval in the aforementioned case.

We are writing as officers, directors, presidents and chancellors of the National Association for Equal Opportunity in Higher Education (NAFEO). Founded in 1969, as a 501(c) (3) not-for-profit association, NAFEO is the only membership association of its kind, representing the presidents and chancellors of all the nation's Historically Black Colleges and Universities (HBCUs): public, private and land-grant, two-year, four-year, graduate and professional institutions. NAFEO was founded to provide an international voice for the nation's HBCUs; to place and maintain the issue of equal opportunity in higher education on the national agenda; to advocate policies, programs and practices designed to preserve and enhance HBCUs and equal educational opportunity; and to increase the active participation of blacks at every level in the formulation and implementation of policies and programs in American higher education and in higher education.

NAFEO and its constituent institutions represented by the signatories hereto, represent 500,000 currently enrolled college students, disproportionate numbers of whom are low-income, first generation and traditionally underserved students in the American higher education system. The association represents 53,000 faculty across the gamut of disciplines, many of whom are authors and researchers; and the association represents 5 million alumni globally. NAFEO institutions are located in 35 states, the District of Columbia and Virgin Islands. (HBCUs)<sup>1</sup>

Despite decades of progress in increasing educational opportunities for diverse students, disproportionate numbers of whom are racial and ethnic minorities; and despite the fact that HBCUs are among the nation's most diverse institutions with 30% student diversity and 40% faculty diversity on average; and that they are educating disproportionate percentages of the growth populations of the nation in the sciences, technology, engineering, mathematics, teaching professions, health professions and other growth and high needs disciplines, HBCUs continue to face significant economic challenges and disparities. Particularly during our national economic downturn, there is considerable pressure on our budgets. Today, NAFEO member institutions find themselves in an especially precarious position: maintaining affordable education for myriad students even as our school populations continue to swell. As racial and ethnic "minorities" grow as a percentage of the population in this country, HBCU student bodies can be expected to grow as well.

We believe that the settlement between Google, authors, and publishers will help equalize educational opportunities for our members, benefiting our students and faculty while also enhancing our own

competitiveness among educational institutions.

While HBCUs' libraries have been able to proudly maintain certain rare book collections, their overall collections of older works pale in comparison to what is available through the library partners with whom Google is working. Under the settlement, our institutions will be able to provide electronic access to a corpus of books on par with those institutions' vast collections, through both the Public Access Service and the Institutional Subscription. We appreciate that the Institutional Subscription will be priced for "broad access," so that it is affordable for institutions like ours.

NAFEO and its 103 HBCU member institutions and 50 PBI member institutions have rare or valuable holdings as well as data and faculty research that would be useful to the increasing number of researchers nationally who are interested in data on blacks in higher education, the achievement and attainment gaps, HBCUs, PBIs and other minority serving institutions, diversity in higher education, affirmative action and equal educational opportunity, best practices in retaining and graduating African American and other traditionally underserved students, as well as other data that NAFEO, its Sister HBCU associations and institutions possess in abundance. We are hopeful that we might combine our resources with the benefits of the settlement in order to have a direct and quantifiable impact on the HBCU community of colleges and on the expansion of equal educational opportunity access and success through NAFEO.

At a more general level, NAFEO believes that enhancing online access to books can help rein in rising book costs, which can be an immense financial burden on our students. Digital distribution reduces costs by its very nature, and more ways to get more books means more competition in the market, which can be expected to help drive prices down as well. Teachers can also reduce costs by designing coursework around books that are available digitally, and, in this regard, the ability to search and preview books for free will be particularly useful.

For the above and other reasons, we urge the court to approve the proposed settlement and to include NAFEO as a named recipient of the above partnership opportunities as part of the settlement.

Sincerely,

  
Lezli Baskerville, President & CEO  
NAFEO

*Ex Officio* Member of the Board of Directors

Ernest McNealey, Chairman of the Board of Directors  
President, Stillman College

Mary Evans Sias, Secretary of the Board of Directors  
President, Kentucky State University

Mickey Burnim President, Bowie State University

Thomas W. Dortch  
President, TWD, Inc.

Larry L. Earvin President, Huston-Tillotson College

209 Third Street, S.E., Washington, D.C. 20003 • (202) 552-3300 (phone); (202) 552-3330 (fax)  
[www.nafeo.org](http://www.nafeo.org)

**William R. Harvey President, Hampton University**

**JoAnn Haysbert President, Langston University**

**Beverly Hogan President, Tougaloo College**

**Melvin M. Johnson President, Tennessee State University**

**Ronald Mason President, Jackson State University**

**Ivory Nelson President, Lincoln University (Pennsylvania)**

**Trudie Kibbe Reed President, Bethune Cookman College**

**Dianne Boardley Suber President, St. Augustine's College**

**Thelma Thompson President, University of Maryland Eastern Shore**

1. "Historically Black Colleges and Universities" (HBCUs) are the federally designated class of institutions founded before 1964 for the purpose of educating the progeny of the American slave system and that that meet other criteria.

**209 Third Street, S.E., Washington, D.C. 20003 · (202) 552-3300 (phone); (202) 552-3330 (fax)  
www.nafeo.org**